

Remarks

**I. Introduction**

Claims 1, 3-10, 12, 13, 15-25, 27-33, 35-42, 44, 46-55, 57-63, and 100-102 are pending in this application. By this amendment, claims 1, 3, 5, 7, 10, 12, 15, 24, 25, 27, 30, 33, 39, 40, 41, 46, 47, 55, 57, 58, 100, 101, and 102 have been amended to more clearly distinguish over the prior art of record and/or to provide proper antecedent basis. Reconsideration, in view of the foregoing amendments and following remarks is respectfully requested.

**II. Rejections under 35 U.S.C. § 112**

Claims 10, 12, 24, 25, 30, 36-38, 47, and 102 stand rejected under § 112, 2<sup>nd</sup> Paragraph as allegedly indefinite. Claims 10, 12, 30, and 102 have been amended to replace “obtaining” with “receiving.” Claim 24 has been amended to specify that the trial balance report is uploaded by an agent of the submitting business. Claim 25 depends upon claim 24. Claim 30 has been amended to change its dependence from claim 24 to claim 25. Claims 36-38 have been amended to change their dependence to claim 35. Applicants note, however, that the recitation of “a corresponding predetermined value” in claim 47 requires no antecedent basis as it is preceded by “a” rather than “the.” Accordingly, withdrawal of all of the rejections under § 112 is respectfully requested.

**III. Rejections under 35 U.S.C. § 102(e)**

Claims 33, 35-37, 42, 44, 46-49, 51-54 and 101 stand rejected under § 102(e) as allegedly anticipated by U.S. Patent 6,513,019 to Lewis (“the ‘019 patent”). Applicants respectfully traverse the rejection.

At the outset, Applicants’ note that there are some fundamental differences between the systems and methods of the claimed invention and those described in the ‘019 patent. The

former is concerned with collecting, converting, standardizing, analyzing and reporting on private company financial data to create a database of private company data that mirrors the kind of information typically only available for public companies – that is those, who are required to produce this kind of data to the public. In contrast, the systems and methods described in the ‘019 patent are concerned with collecting “financial” data corresponding to securities (stocks) including primarily trades made in those stocks for the purposes of determining what positions to recommend. As is discussed below, while systems may share some basic components, they are fundamentally quite different and the ‘019 patent fails to disclose or even suggest several of the claim elements of the independent claims of the instant application.

Regarding independent claim 33, Applicants submit that the disclosure of the ‘019 patent fails to recite or suggest a network-based performance information management system for automated management of performance information associated with at least one non-public business, the system comprising, *inter alia*, a performance information receipt module that receives performance information uploads from a submitting business in the form of an electronic data file containing a trial balance report taken from the submitting business’s general ledger accounting system, the performance information having a first format based on a first set of performance classifications, a mapping module, including a map database, that converts the performance information from the first format to a second standardized format based at least in part on a mapping between one or more performance classifications of the first set of performance classifications and one or more performance classifications of a second set of performance classifications, the mapping maintained in the map database, a database module for storing the converted information with information associated with at least one submitting business with other aggregated performance information associated with other businesses

thereby creating a standardized database of private company performance information, an analysis module for analyzing the converted performance information based at least in part on one or more performance metrics, and a performance report/alert generation module for generating at least one performance report based on results of the analysis module, the performance report/alert generation module providing the at least one performance report to at least one requesting party.

Similarly, regarding independent claim 101, Applicants submit that the disclosure of the '019 patent fails to recite or suggest a network-based business performance information management system comprising, *inter alia*, a computer system accessible on a computer network and adapted to electronically receive at least one business performance information file from at least one submitting business, the business performance information file containing financial statement information from the submitting businesses general ledger accounting system, the financial statement information in first format specified by that business based on a first set of performance classifications corresponding to a set of financial accounts, convert the information in the at least one business performance information file into a standardized format using a mapping process based on a conversion map that maps one or more performance classifications of the first set of performance classifications and a second set of standardized performance classifications, aggregate the information with converted business performance information of at least one other submitting business thereby creating a standardized database of private company performance information, analyze the converted performance information based at least in part on one or more performance metrics, and generate an alert if results of analyzing indicates that at least one performance metric of the converted performance information varies from a

corresponding predetermined value by more than an adjustable threshold set by a recipient of the alert.

The disclosure of the '019 patent describes a financial data reporting system that provides for real time data entry, data assessment, and report generation. The system receives messages in three categories, messages containing: financial transactions, market data updates, and customer/counterparty data updates. As the messages arrive, they are converted into a format that is recognized by the information server that will process it. The system is primarily for processing data on transactions in securities and options associated with underlying securities. According to this patent's own disclosure, the critical function performed by system is to place integrated data regarding, and information derived from financial transactions, positions, lots, and balances (settled and pending): the universe of financial instruments; customers and counterparties, employees and organizational units; and financial institutions in front of selected groups within the financial firm as well as its customers and counterparties continuously as the data and information changes in real-time or near real-time. Nowhere in this patent is there discussion of obtaining private company financial data from a submitting business's general ledger accounting system, or specifically a trial balance report. Therefore, while the system described in the '019 patent has some high level similarities to that of the instant application to the extent that incoming data is processed from one format to another, and reports are generated, there are also some fundamental differences. Data is not received from a submitting business's financial accounting system; the data is not business performance data, but rather transaction information; the data is not analyzed in accordance with performance metrics; and a report is not generated based on the submitting business's performance data. In view of these many differences, Applicants respectfully submit that the rejection of claims 33 and 101 under § 102 is

improper. Moreover, Applicants submit that these differences are so large in number and fundamental in nature that claims 33 and 101 would not have been obvious in view of that which is disclosed in the '019 patent. Likewise, dependent claims 35-37, 42, 44, 46-49, 51-54 are also patentable over the '019 patent for at least the same reason. Accordingly, withdrawal of the rejection is respectfully requested.

#### **IV. Rejections under 35 U.S.C. § 103(a)**

Claims 38 and 50 stand rejected under § 103(a) as allegedly obvious over the '019 patent; and claims 1, 3-10, 12, 13, 15-25, 27-32, 39-41, 55, 57-63, 100, and 102 stand rejected as allegedly obvious over the '019 patent in view of Published U.S. Patent Application 2004/0059651 ("the '651 application").

In contrast to what is recited in independent claim 1, and similarly recited in independent claims 24, 55, 100, and 102, the disclosure of the '019 patent fails to recite or suggest a method for automated management and standardization of non-public performance information associated with at least one business comprising, *inter alia*, receiving a trial balance report from a contributing business as an electronic data file, the trial balance containing performance information associated with the contributing business, the performance information originating from a financial accounting system used by the contributing business to maintain its accounting records, storing the trial balance report as electronic data on a data processing system, the performance information in the trial balance report having a first format based on a first set of performance classifications, converting, using an automated process executing on the data processing system, the performance information in the trial balance report from the first format to a second standardized format based at least in part on a conversion map associated with the contributing business, the conversion map defining a correspondence between one or more

performance classifications of the first set of performance classifications and one or more  
respective performance classifications of a second set of standardized performance  
classifications, aggregating the converted performance information with performance  
information associated with at least one other business, thereby creating a standardized database  
of private company performance information, analyzing the converted performance information  
associated with the contributing business based at least in part on one or more performance  
metrics, generating at least one electronic report based on results of the analyzing, and  
automatically providing at least a portion of the at least one electronic report to at least one  
requesting party.

The system described in the '019 patent does not receive a trial balance report containing performance information associated with a business. Rather, it receives messages characterizing trades in options and their underlying securities. The system describe in the '019 patent also fails to create a standardized database of standardized private company financial data. Rather it is designed to create reports forecasting the trends in securities and industries based on positions in securities.

The Office Action relies upon the teachings of Published U.S. Application 2004/0059651, the '651 application to teach performing a conversion of data originating from a company's general ledger accounting system, and specifically, a trial balance report. However, Applicants strenuously disagree with this contention. The '651 application teaches the back end processing for a system and method for converting financial accounting comporting with one accounting standard to another. It is described as a system or application for performing this narrow function. However, combining this with the primary reference fails to create a prima facie case of obviousness.

On one hand, the combination is counter intuitive. The system of the '019 patent is for generating real or near real-time reports on securities and categories of securities based on actual and anticipated trade and position information. The other is for converting accounting information from one standard to another. Therefore, applying the methodology of the '651 application to the system of the '019 patent would not make sense as it would prove no enhancement to that system. Instead it would provide features that are incompatible. The system described in the '651 patent already possesses methodology for converting, to the extent that it needs to convert incoming messages describing financial transactions, market data updates, and customer/counterparty updates from one format to another. Thus, it would have no use for a methodology for converting from one accounting standard to another accounting standard as this type of data is not received by the system.

Secondly, even if we assume *arguendo* that such a combination would be proper and/or intuitive, it would still fail to yield the claimed invention. The result would be a system for performing financial data reporting on securities and transactions in those securities with a methodology for converting data comporting with one set of Generally Accepted Accounting Principles (GAAP) to another. In contrast the system of the claims invention provides a complete platform for collecting private company performance data directly from companies' general ledger accounting system, converting that data using a conversion mapping, standardizing it, analyzing it accordance with one or more performance metrics, aggregating it with financial data of other companies, and generating reports specific to that company, based on the results of the analysis. This system provides an up-to-date platform for collection, analysis, and reporting of private company financial performance data that was previously unavailable in the commercial market place and not yet described in the patent literature. The combination of

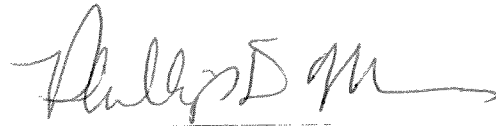
these two alleged prior art references fails to anticipate or render obvious such a system.

Accordingly, Applicants submit that independent claims 1, 24, 44, 100, and 102 are patentable over the combination of applied references. The remaining dependent claims, that is, claims 38 and 50, and 3-10, 12, 13, 15-23, 25, 27-32, 39-41, and 57-63, are likewise patentable for at least the reasons discussed in the context of the traversal of the rejections of the independent claims. Therefore, Applicants respectfully request that the rejections of the claims under § 103 be withdrawn.

**V. Conclusion**

Applicants submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance are respectfully requested. Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited contact the Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



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